IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 14TH JULY 2006 / 23RD ASHADHA,1928

TRC.No. 74 of 2002

AITA.138/1993 of AGRL.I.T.ADDL.BENCH,KOZHIKODE
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PETITIONER/ APPLICANT/APPELLANT.

M.S.P. FAMILY JAIN TRUST,
KALYANA MANDIRAM, KALPETTA NORTH.

BY ADV. SRI.P.V.JYOTHI PRASAD

RESPONDENTS: RESPONDENT/RESPONDENT.

STATE OF KERALA, REPRESENTED BY THE
SECRETARY (TAXES), THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER(SHRI GEORGEKUTTY MATHEW)

THIS TAX REVISION CASE HAVING BEEN FINALLY HEARD ON 14/07/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N. RAMACHANDRAN NAIR &
K. M. JOSEPH, JJ.

T.R.C.NO.74 OF 2002

Dated this the 14th day of July, 2006

JUDGMENT

C.N. Ramachandran Nair, J.

The Tax Revision Case is seen filed under Section 78 of the Kerala Agricultural Income Tax Act, 1991 against the order of the tribunal rejecting the Reference Application filed under Section 60(1) of the Kerala AIT Act, 1950. It is seen from the tribunal's order that the petitioner maintained the stand that only a Reference Application will be maintainable before the tribunal even after commencement of the new Act, based on the decision of this Court in Vally Estate v. Addl. AITO (1994 (1) KLT 799). The tribunal based on the judgment of this Court, entertained the Reference Application under the old Act and dismissed the same, holding that the question raised by the petitioner about the status of the petitioner/assessee does not arise from the order of the tribunal. It is against this order that the petitioner has filed

this Revision Petition under Section 78 of the Kerala AIT Act. We do not think that a Revision Petition under Section 78 is maintainable against an order issued under Section 60(1) of the Kerala AIT Act, 1950. Orders of the tribunal revisable by this Court are orders issued under Section 78 of the Act, 1991 or orders issued in appeal under Section 74(7) or (10) of the Act or orders issued under Section 79 of the Act. Since the impugned order is issued under the old Act, on an application for reference of the question, the Revision Petition is not maintainable and the same is dismissed.

C. N. RAMACHANDRAN NAIR, JUDGE

K. M. JOSEPH, JUDGE

kbk.

C. N. RAMACHANDRAN NAIR &
K. M. JOSEPH, JJ.

T.R.C. NO. 74 OF 2002

JUDGMENT

14th July, 2006.